

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, APRIL 21, 2003
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:15 p.m. Mayor Murphy recessed the meeting at 3:38 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:45 p.m. with Council Member Peters not present. Mayor Murphy adjourned the meeting at 5:14 p.m. into Closed Session at 9:00 a.m. on Tuesday, April 22, 2003 in the twelfth floor conference room to discuss existing and anticipated litigation.

ATTENDANCE DURING THE MEETING:

(M) Mayor Murphy-present

(1) Council Member Peters-(Excused by R-298120 adopted 06/24/03 to attend meeting of California Commission on Tax Policy)

(2) Council Member Zucchet-present

(3) Council Member Atkins-present

(4) Council Member Lewis-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour (ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-not present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor James Pope of
Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

ITEM-30: Take Your Daughters and Sons to Work Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-1202) ADOPTED AS RESOLUTION R-297846

Proclaiming April 24, 2003 to be "Take Our Daughters and Sons to Work Day", and

encouraging families to use this special day as an opportunity to discuss the events of the day at home with their family members.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:18 p.m. - 2:23 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Frank and Stacy Konyn Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1189) ADOPTED AS RESOLUTION R-297847

Recognizing Frank and Stacy Konyn for their many contributions and service to San Diego;

Proclaiming April 21, 2003, to be "Frank and Stacy Konyn Day" in the City of San Diego.

SUPPORTING INFORMATION:

Frank and Stacy Konyn are active with the Young Farmers and Ranchers in San Diego County. They manage the family dairy which has been active in the San Pasqual Valley for over forty years. Stacy is a high school agriculture instructor at Escondido High School and a Future Farmers of America Advisor. Both Frank and Stacy have been active in numerous local, state, and national leadership positions including the State Farm Bureau, the San Pasqual and Lake Hodges Planning Commission, and the State Milk Advisory Board.

Maienschein

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. - 2:29 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Lewis. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Laura Black Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1194) ADOPTED AS RESOLUTION R-297848

Commending Laura for her continued commitment as President of the North City Youth Baseball League to making this league such a success for everyone involved;

Proclaiming April 21, 2003 to be "Laura Black Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:30 p.m. - 2:33 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-50: Amending the San Diego Municipal Code to Authorize Forfeiture of Nuisance Vehicles Engaged in Illegal Motor Vehicle Speed Contests or Exhibitions of Speed.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/7/2003 (Council voted 9-0):

(O-2003-106) ADOPTED AS ORDINANCE O-19167 (New Series)

Amending Chapter V, Article 2, of the San Diego Municipal Code by adding a new Division 53, titled "Forfeiture of Nuisance Vehicles Engaged in Illegal Motor Vehicle Speed Contests or Exhibitions of Speed;" and by adding new Sections 52.5301, 52.5302, 52.5303, 52.5304, 52.5305, 52.5306, 52.5307, 52.5308, 52.5309, 52.5310, 52.5311, 52.5312, 52.5313, 52.5314, 52.5315, 52.5316, 52.5317, 52.5318, 52.5319, 52.5320, 52.5321, 52.5322, 52.5323, 52.5324, to authorize the civil forfeiture of nuisance vehicles used in motor vehicle speed contests or exhibitions of speed and to authorize forfeiture even when the registered owner is not the driver or passenger in the vehicle at the time of the offense.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-51: Kumeyaay Elementary School Joint Use Agreement.

(Tierrasanta Community Area. District-7.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/1/2003 (Council voted 9-0):

(O-2003-126) ADOPTED AS ORDINANCE O-19168 (New Series)

Authorizing the City Manager to execute an agreement for the construction, operation, maintenance, and lease of turf fields and recreational facilities at Kumeyaay Elementary School [Joint Use Agreement] with the San Diego Unified School District of San Diego County, California, for the construction, operation, maintenance, and lease of playing fields and a parking lot at Kumeyaay Elementary School.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-52: Amending the San Diego Municipal Code Relating to Periodic Temporary Park Closures.

(Navajo Community Area. District-7.)

MAYOR MURPHY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2003-49 Cor. Copy) INTRODUCED, TO BE ADOPTED TUESDAY,
MAY 6, 2003

Introduction of an Ordinance amending Chapter 6, Article 3, Division 1, of the San Diego Municipal Code by adding new Section 63.0130, relating to periodic temporary park closures.

SUPPORTING INFORMATION:

The City of San Diego currently provides year round recreational opportunities for the Navajo Community through the use of Allied Gardens Community Park, and the lease and joint use of Lewis Middle School Joint Use Facility.

As a result of this year round use by passive park users, organized athletic leagues and casual athletic use, the central turf area of the Allied Gardens Community Park, and the turf fields of Lewis Middle School Joint Use Facility do not perform properly thereby not providing a sports/recreational turf area of high quality.

The City Council recognizes the need to provide high quality turfed sports and recreational facilities within Navajo Community.

With the intent of providing such facilities, the Allied Gardens Community Park and Lewis Middle School Joint Use Facility (Lower Lewis Field and Skunk Hollow site), will have a yearly staggered non-use resting period. This staggered period will be for at least thirty consecutive days each between May 1st and August 31st of each year.

The program will begin the calendar year of 2003.

FISCAL IMPACT:

Annual maintenance costs for fence rental, installation and removal are estimated to be \$4,000. Funding will be budgeted annually into the Park and Recreation Operations and Maintenance Budget. Funding for 2003 will be absorbed in the Park and Recreation Department's FY 2003 Operations and Maintenance budget.

Murphy/Baber/JH

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-53: Amendment to Chapter 6, Article 5, Division 2 of the San Diego Municipal Code Relating to Maintenance Assessment Districts.

(See Report from the City Attorney dated 2/7/2003; and letter from Marco LiMandri dated 9/30/2002.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2003-129) INTRODUCED, TO BE ADOPTED TUESDAY,
MAY 6, 2003

Introduction of an Ordinance amending Chapter 6, Article 5, Division 2, of the San Diego Municipal Code by amending Sections 65.0201, 65.0202 by renumbering Section 65.0206 to Section 65.027; and creating a new Section 65.0206, all relating to maintenance assessment districts.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 2/12/2003, LU&H voted 5 to 0 to amend the existing Municipal Code provisions governing Maintenance Assessment Districts to allow assessments to be levied and used for parking, marketing and promotion, and economic development provided that an assessment engineer can determine the improvements or services confer a special benefit to real property owners located within an existing or proposed district and the proposed service is consistent with Proposition 218. The City Manager and the City Attorney were directed to bring the revised Municipal Code to City Council. (Councilmembers Peters, Zucchet, Atkins, Lewis, and Frye voted yea.)

SUPPORTING INFORMATION:

At the February 12, 2003 Land Use and Housing Committee, a Report was submitted by the City Attorney's Office regarding maintenance assessment districts [MAD]. The Report, dated February 7, 2003, addressed a proposal to amend the San Diego Municipal Code to enable the creation of a new form assessment district. The Committee directed the City Attorney to prepare an amendment to the Municipal Code to expand the definition of the term "improvement" for MADs. The term "improvement" is to be expanded to allow for a variety of facilities, services, and activities to be maintained within a MAD, provided that an engineer certified by the state determines that the improvements provide special benefit to properties in a proposed or existing MAD.

Ewell/Devaney/KS

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:40 p.m. - 2:53 p.m.)

MOTION BY ATKINS TO INTRODUCE. Second by Maienschein.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-54: Constitutionality of the City's Regulation of "For Sale" Signs on Parked Vehicles.

(See City Attorney Report dated 1/14/2003, and memorandum from Cruz Gonzalez and Marcia Samuels dated 3/20/2003.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2003-102 Cor. Copy) INTRODUCED, TO BE ADOPTED
TUESDAY, MAY 6, 2003

Introduction of an Ordinance amending Chapter 8, Article 6, of the San Diego Municipal Code by amending Section 86.23 relating to Use of Streets for Storage, Service, or Sale of Vehicles, or for Habitation in Vehicles.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 3/26/2003, PS&NS voted 5 to 0 to forward the City Attorney's recommendation regarding repeal of the Municipal Code Section pertaining to the City's regulation of "For Sale" signs on parked vehicles to the City Council. Develop an ordinance to address "For Sale" signs on parked vehicles targeting specific streets identified by community groups and doing appropriate signing on those streets as a deterrent. Provide community planning groups an opportunity to review the draft ordinance prior to bringing it to the Public Safety and Neighborhood Services Committee. Request Governmental Relations Department include, as part of its legislative agenda, changing State law to allow City regulation of "For Sale" signs on parked vehicles. (Councilmembers Zucchet, Atkins, Lewis, Maienschein, and Frye voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-55: Conflict of Interest Code and Indemnification for Loan Board for the San Diego Regional Revolving Loan Fund.

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2003-139) INTRODUCED, TO BE ADOPTED TUESDAY,
MAY 6, 2003

Introduction of an Ordinance authorizing that the San Diego Regional Revolving Loan Fund (SDRRLF) Board Members be indemnified from personal liability when serving within the scope of their duties.

Subitem-B: (R-2003-1185) ADOPTED AS RESOLUTION R-297849

Adopting a Conflict of Interest Code for the Board for the new San Diego Regional Revolving Loan Fund (SDRRLF), consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission;

Declaring that the persons whose positions are designated in the new SDRRLF Board's Conflict of Interest Code shall file their statements of economic interest with the City Clerk.

CITY MANAGER'S SUPPORTING INFORMATION:

On July 8, 2002, the City Council adopted Resolution R-296757, establishing the San Diego

Regional Revolving Loan Fund (SDRRLF). That resolution also authorized the City Manager to establish a Loan Committee to review SDRRLF loan applications. Because the Loan Committee will not be solely advisory, the City Attorney and City Manager are recommending that a conflict of interest code be adopted for the Loan Committee. The conflict of interest code consists of standard terms from California Code of Regulations, Title 2, Section 18730, Appendix A, showing designated positions and their duties, and Appendix B, showing disclosure categories for the designated positions.

Additionally, the City Attorney and City Manager are recommending that the Council approve an ordinance authorizing that the SDRRLF Loan Committee be indemnified from personal liability when serving within the scope of their duties. The SDRRLF Loan Committee will consist of volunteer members from the private sector with expertise in commercial credit and lending, corporate finance, law, accounting and emerging technologies. They will be expected to devote significant time and expertise to the SDRRLF program, and concerns about personal exposure to liability may limit the Manager's ability to recruit quality professionals to serve on the Committee. The Council previously approved by O-18106 the same indemnification for the members of the EmTek Loan Committee, which performs the same functions for the EmTek Loan program.

Herring/Cunningham/THR

FILE LOCATION: SUBITEM A: NONE
SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Inzunza. Passed by the following vote: Peters-not present, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-100: Consultant Agreement - University City North/South Corridor Study.

(University Community Area. District-1.)

(Continued from the meeting of 4/7/2003, Item 200, at the request of Councilmember Peters, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1141) ADOPTED AS RESOLUTION R-297850

Authorizing the City Manager to execute a phase funded agreement with Project Design Consultants to provide professional consulting services related to the University City North/South Transportation Corridor Project (Project);

Authorizing the expenditure of an amount not to exceed \$1,773,300, solely and exclusively for the purpose of providing funds for the Project, and provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure under said Project are, or will be, on deposit in the City Treasury as follows:

- A. Funds for Phase I of the Project, in Fiscal Year 2003, in the amount of \$1,120,300, of which \$620,300 is from CIP-52-044.0, Regents Road Bridge, Fund 79001 and \$500,000 is from CIP-52-458.0, Genesee Avenue - Nobel Drive to State Route 52, Fund 79001.
- B. Funds for Phase II of the Project, in Fiscal Year 2004, in the amount of \$653,000 of which \$300,000 is from CIP-52-044.0, Regents Road Bridge, Fund 79001 and \$353,000 is from CIP-52-458.0, Genesee Avenue - Nobel Drive to State Route 52, Fund 79001, contingent upon the approval of Fiscal Year 2004 North University City Facility Financing Plan and Fiscal Year 2004 Capital Improvements Plan Budget.

CITY MANAGER SUPPORTING INFORMATION:

The University City North/South Transportation Corridor project is being proposed as a means of improving traffic circulation within the University community area. Two of the projects identified in the University Community Plan are the widening of Genesee Avenue between Nobel Drive and State Route 52 and the construction of a bridge over Rose Canyon connecting the northern and southern portions of Regents Road. At the University Community Planning Group meeting in June of 2002, the community identified potential areawide network solutions to meet traffic circulation needs in addition to or in place of the two previously mentioned. This project will study a range of alternatives proposed by the community as well as the original projects identified in the community plan. An important component of this study requires

significant public outreach and stakeholder involvement. A working group consisting of representatives from residential, commercial and environmental interest will be formed and will participate in the identification and ranking of various alternatives. The first phase of this project will include professional services needed for a traffic study such as phasing components, trip linkage differences, attractors & generators, and traffic simulation. Also included are the preliminary engineering of different alternatives and planning level construction cost estimates. The second phase will consist of the preparation of an environmental document.

FISCAL IMPACT:

The maximum expenditure under the terms of this Agreement is \$1,773,300. The agreement is phase funded and funds for Phase I are available from CIP-52-044.0 - Regents Road Bridge, Fund 79001 (\$620,300) and from CIP-52-458.0 - Genesee Avenue-Nobel Drive to State Route 52, Fund 79001 (\$500,000). It is anticipated that funds for Phase II will be available in Fiscal Year 2004 in the amount of \$300,000 from CIP-52-044.0 - Regents Road Bridge, Fund 79001 and \$353,000 from CIP-52-458.0 - Genesee Avenue-Nobel Drive to State Route 52.

Loveland/Belock/PB

Aud. Cert. 2301015.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:39 p.m. - 2:39 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: Two actions related to Inviting Bids and Award of Contract for Sewer Pump Station No. 18 Rehabilitation.

(See memorandum from Frank Belock, Jr., dated 1/8/2003. Pacific Beach Community Area. District-2.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2003-840) ADOPTED AS RESOLUTION R-297851

Approving the plans and specifications and inviting bids for the Construction of Sewer Pump Station 18 Rehabilitation (Project) on Work Order No. 175191;

Authorizing the City Manager to establish contract funding phases and to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$4,461,294, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the additional expenditure of an amount not to exceed \$4,074,129 from Sewer Fund 41506, CIP-46-106.0, Annual Allocation - Sewer Pump Station Restoration, solely and exclusively for the purpose of providing funds for the Project and related costs, contingent upon the passage of the Fiscal Year 2004 Capital Improvement Program and Appropriations Ordinance Budgets, and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Authorizing the City Manager to execute an agreement with the California Coastal Commission with conditions necessary to obtain a Coastal Development Permit. (BID-K03589C)

Subitem-B: (R-2003-841) ADOPTED AS RESOLUTION R-297852

Certifying that the information contained in the final Mitigated Negative Declaration, PTS No. 2830, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the construction of the Project;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk

of the Board of Supervisors for the County of San Diego regarding the project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 1/15/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer and Inzunza voted yea.)

SUPPORTING INFORMATION:

Sewer Pump Station No. 18 is located at 597 Loring Street. The existing pump station was built in 1950 and exceeded its service life. The project's goal is to replace and improve the reliability of the pump station and bring it under current standards and regulations.

The project consists of rehabilitation of existing pump station, including the construction of a new emergency storage tank, influent and overflow piping, pumps, valves, mechanical, architectural, cutoff walls, and the installation of approximately 2,100 feet of dual force main. During the construction phase of the project, the contractor's work hours will be between the hours of 8:30 a.m. and 3:30 p.m., Monday through Friday. Furthermore, the site will be fenced for safety during, and at the completion of each working day for the duration of the project.

During design, Project Manager and Project Engineer presented the project to the community. Nearby residents will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution. Traffic plans have been prepared for this project and will be implemented during the construction operations.

Council action is required to advertise and award the project, as well as approve an agreement with the Coastal Commission. The agreement incorporates the conditions necessary to obtain a Coastal Development permit for the project, as set forth in the Coastal Commission Staff Report. The Staff Report includes provisions regarding public access, post construction rip rap maintenance, summer moratorium, project's overall aesthetic features, assumption of risk, waiver of liability, and indemnification.

FISCAL IMPACT:

The total estimated cost of this project is \$4,461,294. Funds of \$4,074,129 are available in Sewer Fund 41506, CIP-46-106.0, Annual Allocation - Sewer Pump Station Restorations. This project is scheduled to be phase funded over FY2004 to FY2005.

Loveland/Belock/HR

WWF-03-644.

FILE LOCATION: SUBITEMS A&B: CONT-Cass Construction; W.O.
175191

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: Transfer of Funds - Lindbergh Neighborhood Park Tot Lot Upgrade.

(Clairemont Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1181) ADOPTED AS RESOLUTION R-297853

Authorizing the City Manager to award the Project contract to Telliard Construction in an amount not to exceed \$197,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2003 Capital Improvement Program Budget by increasing CIP-29-470.0, Lindbergh Neighborhood Park Tot Lot Upgrade, by \$15,000;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to appropriate and expend an additional amount not to exceed \$15,000 from Park Bond Funds, Fund No. 38156, CIP-29-470.0, Lindbergh Neighborhood Park Tot Lot Upgrade;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

Lindbergh Neighborhood Park Tot Lot Upgrade is located at 4141 Ashford Street. This project will provide for the upgrade and renovation of the existing tot lot by adding new play equipment and ADA accessibility.

In March 2000, California voters approved the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Act of 2000 (2000 Park Bond). On August 15, 2000, City Council adopted Resolution 293698 authorizing the City Manager to secure grant funding under the 2000 Park Bond, including a \$100,000 grant for improvements at the Lindbergh Neighborhood Park Tot Lot Upgrade. The City Manager has secured 2000 Park Bond funds and has entered in a grant contract for Park Bond Per Capita and Robert-Z'berg Harris Per Capita Funds. The current action will allocate an additional \$15,000 in 2000 Park Bond to the Lindbergh Neighborhood Park Tot Lot Upgrade. On November 1, 2002, five bid packages were received for the project. The lowest responsible bid was submitted in the amount of \$197,000 which was 8.1% higher than the project estimate. This request will transfer additional funds into the project to allow the City Manager to enter into a contract with the lowest bidder. Staff believes readvertising the project will not result in a lower bid and any delays will have significant higher costs associated to the project.

FISCAL IMPACT:

The estimated project cost is \$272,600 of which \$257,600 has been previously approved. The remaining funds (\$15,000) will be available in Fund No. 38156, Lindbergh Neighborhood Park Tot Lot Upgrade.

Loveland/Belock/AO

Aud. Cert. 2301029.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

(La Jolla Community Area. District-1.)

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: Water and Sewer Easement Vacation in Lots 5 and 6 of Map No. 12678.

(Tierra Santa Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1173) ADOPTED AS RESOLUTION R-297855

Vacating the City's interest in the water and sewer utility easement in Lots 5 and 6
of Map 12678.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a water and sewer easement in Lots 5 and 6 of Map 12678. This property is located in the Tierra Santa community area within Council District 7. The easement is on private property and there are no existing facilities within the easement area. The applicant has an approved development which requires that the water and sewer easement be vacated. The Water and Waste Water Section of the Development Services Department has reviewed the abandonment request and recommends approval of the vacation. The vacation of this easement will relieve the City of the responsibility to maintain the easement area. The easement was acquired at no cost to the City.

FISCAL IMPACT:

None, all costs have been paid by the applicant.

Ewell/Broughton/AEA

FILE LOCATION: DEED F-9532

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-105: Vacation of a Sewer Easement in a Portion of Pueblo Lot 1788.

(Pacific Beach Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1167) ADOPTED AS RESOLUTION R-297856

Vacating the sewer easement in a portion of Pueblo Lot 1788 to unencumber this property under the procedure for the summary vacation of public service easements, Section 8330 et seq. of the California Streets and Highways Code.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a sewer easement in a portion of Pueblo Lot 1788. This property is located in the Pacific Beach Planning area within Council District 2. The sewer easement to be vacated is 10 feet wide. The applicant has granted a 30 feet wide general utility easement in its place making the sewer easement unnecessary. The Waste Water Section of the Development Services Department has reviewed the vacation request and recommends approval of the sewer vacation. This easement was acquired at no cost to the City. City staff recommends approval of the easement vacation.

FISCAL IMPACT:

None, all costs have been paid by the applicant.

Ewell/Broughton/AEA

FILE LOCATION: DEED F-9533

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Developer Fees FY2002 Annual Report.

(See City Manager Report CMR-03-066.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1176) ADOPTED AS RESOLUTION R-297857

Accepting the Developer Fees FY2002 Annual Report and making findings with respect to funds reflected in the Developer Fees FY2002 Annual Report as having been collected over five years before June 30, 2002, as stated in Attachment 6 of the Developer Fees FY2002 Annual Report.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Homeless Task Force Recommendations.

(See City Manager Report CMR-02-279.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1150) ADOPTED AS RESOLUTION R-297858

Accepting the Homeless Services Task Force Report;

Directing the City Manager to:

1. Begin the process of updating City Council Policy 000-51 as recommended by the Homeless Services Task Force;
2. Begin the process of establishing a Homeless Advisory Committee and Siting Guidelines Task Force as recommended in the Homeless Services Task Force Report;
3. Prioritize and analyze the remaining recommendations of the Homeless Services Task Force with the participation of the newly formed Homeless Advisory Committee and return with recommendations and fiscal impacts;
4. Review the relationship between homelessness and jobs; analyze other ways to assist renters including unjust evictions and the cost of multiple credit checks; and analyze the pros and cons of a liveable wage ordinance.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 11/27/2002, LU&H voted 5 to 0 to accept the City Manager's recommendations and include for additional review: a) The relationship between homelessness and jobs, b) other ways to assist renters including with unjust evictions and the cost of multiple credit checks, and c) the pros and cons of a liveable wage ordinance. (Councilmembers Peters, Zucchet, Lewis, Maienschein, and Frye voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-108: Parcel Map TM-98-0395 Including General Utility and Access Easement Vacations.

(University Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1144) ADOPTED AS RESOLUTION R-297859

Approving Parcel Map I.D. No. 99-068.

CITY MANAGER SUPPORTING INFORMATION:

This parcel map proposes the subdivision of a 59.124 acre site into nine parcels for industrial development. It is located north of Eastgate Mall, west of Interstate 805, in the University Community Plan area. This map requires Council approval because easements are being vacated on the map.

The existing general utility and access easements granted on Parcel Map No. 18044 are no longer necessary for the planned development, and are therefore being vacated. New general utility and access easements are being granted on the map to accommodate the new utility locations. Staff has determined that the revised project is consistent with all previously approved permits.

On November 5, 1998, the Planning Commission of the City of San Diego approved TM-98-0395 by PC No. 2725-PC. The City Engineer has approved the parcel map and states that all conditions of the Tentative Map have been satisfied. The public improvements required for this parcel map have been completed in connection with Bridgepointe Corporate Center (W.O. 990056).

This project is expected to generate approximately 3,613 average daily trips (ADT). The project is estimated to add 360 ADT to I-5 north of Genesee Avenue which carries approximately 151,000 ADT, and 540 ADT to I-5 south of Genesee Avenue which carries approximately 152,000 ADT. Near-term improvements include adding axillary lanes between the I-5/I-805 merge and La Jolla Village Drive. Planned future improvements include the addition of two high occupancy (HOV) lanes from the I-5/I-805 merge to I-8. The project is also expected to add 720 ADT to I-805 north of La Jolla Village Dr. which carries approx. 169,400 ADT, and 900 ADT to I-805 south of Nobel Dr. which carries approximately 198,300 ADT. Anticipated improvements

include widening La Jolla Village Dr. to eight lanes and provide three lanes to southbound I-805, and conversion of the I-805/La Jolla Village Dr. interchange from a full cloverleaf to a partial cloverleaf.

In order to satisfy Condition 11 of TM-98-0395, subdivider is entering into a bonded Deferred Improvement Agreement for the construction of a future traffic signal, street modifications and appurtenances at Eastgate Mall and the easterly driveway of the project.

FISCAL IMPACT:

None.

Ewell/Broughton/GRB

FILE LOCATION: DEED F-9534

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: Settlement of the Civil Rights Litigation of Phillip Paulson - Ninth Circuit Court of Appeals Case No. 00-55406.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1162) ADOPTED AS RESOLUTION R-297860

A Resolution approved by the City Council in Closed Session on Tuesday, March 25, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$215,000 in the settlement of each and every claim against the City, its agents and employees, resulting from the civil rights litigation of Phillip Paulson (Ninth Circuit Court of Appeals Case No.

00-55406, Phillip Paulson v. City of San Diego, et al);

Authorizing the City Auditor and Comptroller to issue one check in the sum of \$215,000 made payable to Phillip Paulson and his attorney, Law Offices of James E. McElroy, in full settlement of the attorney's fees and costs incurred in the District Court and Ninth Circuit Court of Appeals;

Declaring that the funds are to be payable from Fund No. 81140.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: Closed Circuit Televising (CCTV) Inspection and Assessment.

(See memorandum from Scott Tulloch dated 4/2/2003.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1191) ADOPTED AS RESOLUTION R-297861

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$500,000 from Fund 41509, Unallocated Reserve, Department 777, Org. No. 445, to Fund No. 41506, Department 773, Org. 820, Job Order 8206.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/9/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer and Inzunza voted yea.)

CITY MANAGER SUPPORTING INFORMATION:

The Metropolitan Wastewater Department is focused on preventing sewerage system spills and minimizing these spills collective impact on the environment. Additionally, the City Council and Mayor Murphy have identified water quality as an important goal for the City. Accordingly, MWWD has embarked on a program to inspect and assess the pipelines considered most at risk of experiencing a spill.

With the authorization of City Council, MWWD has entered into two phase funded agreements to inspect certain sewer mains and manholes as part of our Phase III televising efforts. Both firms are working efficiently and expeditiously. The CCTV data collected during the inspection process identifies problem areas and allows City crews to remove blockages or repair damage, thereby preventing spills before they occur. The data will also be instrumental in evaluating the condition of the sewer mains and identifying locations where high priority rehabilitation or replacement is required. To maintain the current momentum of each firm, MWWD intends to accelerate work currently scheduled to commence in FY2004.

This action authorizes the transfer of funds from the Metropolitan Wastewater Department's Unallocated Reserve to the Wastewater Collections Division's operations and maintenance budget for CCTV activities in Fiscal Year 2003.

FISCAL IMPACT:

The total of this action is \$500,000 which is available in the Unallocated Reserve Fund 41509.

Mendes/Tulloch/DG

Aud. Cert. 2301062.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-111: Appointments and Reappointments to the Board of Building Appeals and Advisors.

(See memorandum from Mayor Murphy dated 4/10/2003 with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1200) ADOPTED AS RESOLUTION R-297862

Council confirmation of the following appointments and reappointments by the Mayor to serve as members of the Board of Building Appeals and Advisors, in categories as indicated, for terms ending March 1, 2005:

Reappointments:

Michael V. Furby (General Contractor)
Tony Kan (Electrical Engineer)
John Littrell (Mechanical Electrical Engineer)

Appointments:

Dale W. Naegle (Disabled Community Representative)
(Replacing Daniel M. Bridgett, whose term has expired)
Cameron D. Duncan (Structural Engineer)
(Replacing Matthew N. Martinez, whose term has expired)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-112: San Diego County Women's Hall of Fame Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-1152) ADOPTED AS RESOLUTION R-297863

Commending the San Diego County Women's Hall of Fame for its outstanding efforts to acknowledge and honor women who have had a positive influence on life in San Diego;

Proclaiming March 22, 2003 to be "San Diego County Women's Hall of Fame Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-113: Excusing Councilmember Charles Lewis from the Land Use and Housing Meeting of Wednesday, April 23, 2003.

COUNCILMEMBER LEWIS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-1183) ADOPTED AS RESOLUTION R-297864

Excusing Councilmember Charles Lewis from attending the regularly scheduled Land Use and Housing Meeting of April 23, 2003, due to a scheduled meeting of the League of California Cities in Sacramento that same day.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-114: Five actions related to Approval of Suggestion Awards.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2003-1155) ADOPTED AS RESOLUTION R-297865

Adrian G. Hill - MWWD Department - \$2,500.

Subitem-B: (R-2003-1156) ADOPTED AS RESOLUTION R-297866

Enrico C. Layug - MWWD Department - \$328.05.

Subitem-C: (R-2003-1157) ADOPTED AS RESOLUTION R-297867

Enrico C. Layug - MWWD Department - \$1,880.25.

Subitem-D: (R-2003-1158) ADOPTED AS RESOLUTION R-297868

Bruce E. Hoover - MWWD Department - \$236.40.

Subitem-E: (R-2003-1159) ADOPTED AS RESOLUTION R-297869

John L. Cozad - MWWD Department - \$280.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-115: Declaring a Continued State of Emergency Regarding the Discharge of Raw
Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-986) ADOPTED AS RESOLUTION R-297870

Declaring a Continued State of Emergency regarding the discharge of raw sewage
from Tijuana, Mexico.

FILE LOCATION: GEN'L-State of Emergency Regarding the Discharge of
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-116: Declaring a Continued State of Emergency due to Economic Circumstances in the
San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-804) ADOPTED AS RESOLUTION R-297871

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L-State of Emergency Due to Economic
Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-117: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1090) ADOPTED AS RESOLUTION R-297872

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER'S SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L-Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

- * ITEM-118: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1022) ADOPTED AS RESOLUTION R-297873

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- ITEM-150: Prevailing Wage Requirement, Inviting Bids and Award of Contract for Miramar Water Treatment Plant Upgrade and Expansion - Contract A.

(See City Manager Report CMR-03-072 and memorandum from Larry Gardner

dated 1/28/2003. Scripps Miramar Ranch Community Area. Districts-1, 2, 5, 6, and 7.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-839) ADOPTED AS AMENDED AS RESOLUTION R-297874,
WITH DIRECTION

Approving the plans and specifications and inviting bids for the Construction of Miramar Water Treatment Plant Upgrade and Expansion - Contract A (Project), on Work Order No. 182481A;

Authorizing the City Manager to establish contract funding phases, to award a contract to, and to execute a contract with, the lowest responsible and reliable bidder for the Project, contingent upon (a) City Council approval of the expenditure of any additional Project funding that may become necessary as a result of the bid opening for the Project; (b) the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer; and (c) the passage of the FY 2004 Capital Improvement Program and Appropriation Ordinance Budget;

Authorizing the expenditure of an amount not to exceed \$77,779,773 from Water Fund 41500, CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion and \$7,290,171 from Water Fund 41500, CIP-73-331.0, Water Pooled Contingency, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer, contingent upon the passage of the FY 2004 Capital Improvement Program and Appropriation Ordinance Budget;

Approving the use of City Forces on the Project to implement water treatment plant shut downs and perform other work necessary to help minimize and mitigate disruptions to the City's water service during construction of the Project for a cost not to exceed \$200,000;

Authorizing the expenditure of \$10,000 for right-of-way and easement related

costs available in Water Fund 41500, CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer, contingent upon the passage of the FY 2004 Capital Improvement Program and Appropriation Ordinance Budget;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K03482C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/5/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

FILE LOCATION: CONT - Western Summit Constructors; W.O. 182481 A

COUNCIL ACTION: (Time duration: 4:04 p.m. - 5:14 p.m.)

MOTION BY INZUNZA TO ADOPT THE RESOLUTION AS AMENDED, WAIVING COUNCIL RESOLUTION NO. R-251555 AND REQUEST THAT IN TWO WEEKS THE CITY MANAGER PROVIDE AN ADDENDUM TO THE BID TO INCLUDE THE PREVAILING-WAGE REQUIREMENT FOR THE MIRAMAR WATER TREATMENT PLANT UPGRADE PROJECT. DIRECT THAT THE ISSUE OF PREVAILING WAGE BE REFERRED TO THE RULES COMMITTEE FOR DISCUSSION, WITH THE AIM OF FASHIONING A POLICY TO INCLUDE THE PREVAILING-WAGE PROVISION ON ALL SUCH FUTURE PROJECTS AND TO THEN COME BEFORE THE COUNCIL FOR CONSIDERATION AND A VOTE. ACCEPT COUNCIL MEMBER MADAFFER'S REQUEST THAT THE SUBJECT OF AN AMENDMENT TO THE CITY CHARTER WHICH SPECIFICALLY GIVES A 5 PERCENT CREDIT TO LOCAL PROJECTS AS A MATTER OF POLICY, BE INCLUDED IN THE DISCUSSION BEFORE THE RULES COMMITTEE. Second by Zucchet. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ITEM-151: Prohibitions Against Consumption of Alcoholic Beverages by Minors and Allowing or Hosting Gatherings Where Minors are Consuming Alcoholic Beverages.

(See Report from the City Attorney dated 2/27/2003.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2003-114) INTRODUCED, TO BE ADOPTED
TUESDAY, MAY 6, 2003

Introduction of an Ordinance amending Chapter 5, Article 6, of the San Diego Municipal Code by adding Sections 56.60, 56.61, 56.62, and 56.63, relating to Prohibitions Against Consumption of Alcoholic Beverages by Minors and Allowing or Hosting Gatherings Where Minors are Consuming Alcoholic Beverages.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 3/5/2003, PS&NS voted 5 to 0 to support the City Attorney's recommendation for this ordinance. (Councilmembers Zucchet, Atkins, Lewis, Maienschein, and Frye voted yea.)

SUPPORTING INFORMATION:

Background:

Consumption of alcoholic beverages by minors and parties where minors consume alcoholic beverages present a myriad of problems for the minor, the community, and law enforcement. For minors, alcohol abuse can lead to traffic crashes, violent crime, accidental injury, alcohol poisoning, and increased risk taking behaviors. Proponents of the ordinance have stated that alcohol is the number one drug of choice for minors.

In a recent survey, 57% of local high school students reported drinking at friends' homes. Combating Underage Drinking, 1999. In another study it was determined that underage drinking "occurs primarily outside commercial establishments and most often in residences and open areas like beaches and parks." Mayer, Forster, Murray, and Wagenaar, 1998. For the community, neighbors are routinely required to deal with the aftermath of underage drinking parties, such as

vandalism to cars and homes, littering, urine and feces in their yards, loud noises, and traffic congestion.

Finally, law enforcement is faced with having to spend an inordinate amount of resources to respond to party calls. In 2001, the San Diego Police Department responded to 7,519 home party calls, costing in excess of \$298,000. In addition, from January to November 2002, the San Diego Police Department issued 1577 minor in possession citations (violations of Business and Professions Code Section 25662). The proposed ordinance addresses the problems related to minors consuming alcohol and underage drinking parties.

Ordinance:

The proposed ordinance would amend the San Diego Municipal Code: (1) to make it a misdemeanor for a minor to consume alcoholic beverages in any public place, place open to the public, and any place not open to the public (unless supervised by a parent or guardian), and (2) to make it a misdemeanor to permit, host, or allow a party or gathering where three or more minors are gathered and a minor is consuming alcoholic beverages at a private residence (under age drinking party). As misdemeanors, violations of the ordinance could be punishable by up to six months in the county jail and/or \$1,000 fine.

Currently there is no law which makes it a crime for a minor to consume alcoholic beverages. It is, however, illegal under state law for a minor to possess alcoholic beverages in public, but not in places not open to the public. The proposed ordinance would fix the gap in the law by prohibiting consumption in both public places and places not open to the public.

The ordinance does not apply when a parent or guardian is supervising the consumption of alcohol. Furthermore, there is currently no law which makes it a crime to host an underage drinking party. There are laws which address the symptoms of an underage drinking party, such as laws against littering, urinating in public, and vandalism. However, these laws do not hold the host responsible for the impact their party has had on the public and minor. A question which has arisen, involves a scenario where an adult parent leaves for the weekend and their son or daughter hosts an underage drinking party without the parents knowledge or consent.

Is the parent in violation of the proposed ordinance? The answer is no. The ordinance requires that suspected violator have knowledge of the party. Finally, the prohibition against hosting an underage drinking party does not apply when the gathering is supervised by the parent or guardian of each minor that is present. The purpose of the exception is to exclude religious and similar types of family gatherings from being subject to the ordinance.

Legislative History:

The proposed ordinance was introduced at the Public Safety and Neighborhood Services

Committee on March 5, 2003 by a vote of five to zero; it was recommended that the ordinance be adopted by the City Council.

Ewell/Devaney/MO

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:55 p.m. - 3:38 p.m.)

MOTION BY MAIENSCHIN TO INTRODUCE. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Amend Billboard Ordinance Regulating Alcohol Advertising.

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2003-80) INTRODUCED, TO BE ADOPTED
TUESDAY, MAY 6, 2003

Introduction of an Ordinance amending Chapter V, Article 8, Division 5, of the San Diego Municipal Code by amending Sections 58.0501, 58.0502, 58.0503, and 58.0504, all pertaining to Restricting the Advertising of Alcoholic Beverages to Youth.

CITY MANAGER SUPPORTING INFORMATION:

This amendment proposes changes required by United States District Court Stipulated Consent Judgement Case No. 01CV1941 BTM (JFS) regarding billboard alcohol advertising in the City of San Diego. The terms of the judgement were already agreed to by the City Council in Closed Session. This action simply amends the Municipal Code to be consistent with the stipulated judgement.

The amendment redefines the billboards that are restricted from alcohol advertising which will now include all billboards within 500 feet (amended from 1,000 feet) of daycare centers, libraries, playgrounds, recreation centers and facilities, and schools, and any other billboards that

are clearly visible from locations at these sites where children are likely to congregate. This amendment eliminates arcades from the original list of sites, and more clearly defines child care centers, libraries, playgrounds, recreation centers, and schools. The amendment also modifies the enforcement provisions of the ordinance.

FISCAL IMPACT:

None.

Loveland/Samuels/FH

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:46 p.m. - 4:04 p.m.)

MOTION BY LEWIS TO INTRODUCE. Second by Zucchet. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 22, 2003

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: Qualcomm Stadium

Agency Negotiator: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett, and Robert Kheel.

Negotiating Parties: City of San Diego and the San Diego Chargers

Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this item is listed on the docket only for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on April 22, 2003.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

Mayor Murphy closed the Hearing.

ITEM-202: TEFRA Hearing on Refunding of 1993 Certificates of Participation (Balboa Park/Mission Bay Capital Improvements Program).

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1161) ADOPTED AS RESOLUTION R-297875

Approving the execution and delivery of the Certificates of Participation for the Balboa Park/Mission Bay Park Capital Improvements, for the refinancing of the Project in an amount not to exceed \$22,000,000; the proceeds of the Series 1993 Certificates were used for the purposes and for the facilities to be owned, operated or managed by the users set forth in the notice of public hearing. It is the purpose and intent of this Council that this Resolution constitute approval of the issuance of obligations by applicable elected representatives at the governmental unit having jurisdiction over the area in which the program is to be conducted, in accordance with Section 147(f) of the Code.

CITY MANAGER SUPPORTING INFORMATION:

On March 17, 2003, the City County approved Ordinance No. O-2003-121 and Resolution R-2003-994 authorizing the refunding of 1993 Certificates of Participation (Balboa Park/Mission

Bay Park Capital Improvements). Since a portion of the Certificates may be treated as "qualified 501(c)(3) bonds" within the meaning of the Internal Revenue Code of 1986, it is necessary that the City conduct a public hearing for the purpose of hearing and considering information concerning the possible execution and delivery of the Certificates of Participation in an amount not to exceed \$22.0 million, as previously authorized by the above referenced Council actions. A public hearing for this purpose will be held at the City Council meeting on April 21, 2003. A Public Notice of the meeting will be published prior to the meeting date, in accordance with the requirements of Section 147(f) of the Code.

FISCAL IMPACT:

The annual lease payments for the Certificates of Participation authorized by Ordinance No. O-2003-121 is estimated to be approximately \$74,000 lower than the annual lease payments on the original refunded 1993 Certificates of Participation.

Frazier/Vattimo/LK

FILE LOCATION: LEAS- San Diego Facilities and Equipment Leasing Corporation

COUNCIL ACTION: (Time duration: 2:54 p.m. - 2:54 p.m.)

MOTION BY COMMON CONSENT TO ADOPT. Passed by the following vote:
Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: Settlement of the Property Damage Claim of Old Town Plaza, et. al.
Claim File No. LP03-0706-0740.

(R-2003-1092)

Adopted as Resolution R-297773.

A Resolution approved by the City Council in Closed Session on Tuesday, March 18, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-not present; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$300,097.50 in complete

settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim of Old Town Plaza, et. al. v. City of San Diego on September 20, 2002;

Authorizing the City Auditor and Comptroller to issue various checks in the amount of up to but not exceeding \$300,000 made payable to Luth & Turley, Inc. in full settlement of all claims.

Aud. Cert. 2300952.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-251: Settlement of the Property Damage Claim of San Diego 101 RFP III, et al. Claim File No. LP03-0705-1406.

(R-2003-1116)

Adopted as Resolution R-297774.

A Resolution approved by the City Council in Closed Session on Tuesday, March 18, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-not present; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$129,467.32 in complete settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim of San Diego 101 RFP III, et al., on November 30, 2002;

Authorizing the City Auditor and Comptroller to issue various checks in the amount of up to but not exceeding \$124,467.32 made payable to various claimants and Luth & Turley, Inc. in full settlement of all claims.

Aud. Cert. 2300975.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-252: Settlement of the Personal Injury Claim of Annette Rockoff.

(R-2003-1109)

Adopted as Resolution R-297735.

A Resolution approved by the City Council in Closed Session on Tuesday, March 18, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$125,000 in the settlement of each and every claim against the City, its agents and employees, resulting from personal injury to Annette Rockoff as a result of the incident which occurred on June 12, 2001 (Superior Court Case No. GIC-788577, Annette Rockoff v. City of San Diego);

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$125,000, made payable to Annette Rockoff and her attorney of record, Thomas Gniatkowski, in full settlement of all claims.

Aud. Cert. 2300976.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-253: Settlement of Property Damage Claim of Kate Martin - Claim File No. LP02-7773-2947-0740.

(R-2003-1182)

Adopted as Resolution R-297845.

A Resolution approved by the City Council in Closed Session on Tuesday, April 8, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$108,468.49 in complete settlement of each and every claim against the City, its agents and employees,

resulting from property damage claim of Kate Martin on May 6, 2002;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$78,087.44 made payable to Luth and Turley, Inc., in full settlement of all claims.

Aud. Cert. 2301040.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-254: Notice of Pending Final Map Approval - Black Mountain Ranch Unit No. 15.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Black Mountain Ranch Unit No. 15," a copy of which is available for public viewing at the office of the San Diego City Clerk. Said project is located northwesterly of I-15 and Carmel Mountain Road in the Rancho Peñasquitos Community Plan Area in Council District 1. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

* ITEM-S400: Approving Final Map of The Pinnacle Museum Tower Condominium.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1214) ADOPTED AS RESOLUTION R-297876

Approving the final map of The Pinnacle Museum Tower Condominium.

CITY MANAGER'S SUPPORTING INFORMATION:

This map proposes the subdivision of a 2.11 acre site into 1 lot for residential development containing a maximum of 198 dwelling units, approximately 10,000 square feet of commercial space that will include 10 commercial units, and approximately 58,000 square feet for museum development. It is located between Union and Front Streets, Market Street and Island Avenue in the Centre City Community Plan area.

On October 23, 2002, Hearing Officer Resolution No. D-4140 approved Map Waiver No. 5416 for Pinnacle Museum Tower. The City Engineer has approved the final map and states that all conditions of the Map Waiver have been satisfied.

The public improvements required for this subdivision are shown in detail on Drawing Number 32017-1 -D through 32017-21 -D, filed in the Office of the City Clerk under Micro Number 141.78. All improvements are to be completed within one year.

The Engineer's estimate for the cost of public improvements is \$540,393. An engineering permit has been issued and a Permit Performance Bond in that amount has been provided as surety. A cash bond in the amount of \$1,000, as determined by the surveyor's estimate, has been posted as surety for the setting of survey monuments.

Subdivider, by letter, has given assurance to the City of San Diego that he subscribes to the Affirmative Marketing Program as shown in the "Memorandum of Understanding between the San Diego Building Industry Association and U. S. Department of Housing and Urban Development".

The project impact on the surrounding streets is minimal, and no street improvements are required for this project.

This project is located in the Centre City Redevelopment area and is therefore exempt from development impact fees.

FISCAL IMPACT:

None.

Ewell/Broughton/PM

FILE LOCATION: LUP-The Pinnacle Museum Tower Condominium, 4/21/03
(65)

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:14 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:14 p.m.)